

ESTTA Tracking number: **ESTTA165398**

Filing date: **09/27/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177234
Party	Plaintiff Cardinal Health 303, Inc.
Correspondence Address	Joseph R. Dreitler Bricker & Eckler LLP 100 S. Third Street Columbus, OH 43215-4291 UNITED STATES jdreitler@bricker.com
Submission	Motion to Consolidate
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Date	09/27/2007
Attachments	Motion for Consolidation - Cardinal Health 303 v. The Alaris Group.pdf ( 5 pages ) (73015 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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- |                              |   |                            |
|------------------------------|---|----------------------------|
| 1. CARDINAL HEALTH 303, INC. | : |                            |
|                              | : |                            |
| Opposer                      | : |                            |
|                              | : |                            |
| v.                           | : | Opposition No.: 91-177,234 |
|                              | : |                            |
| THE ALARIS GROUP, INC.       | : |                            |
|                              | : |                            |
| Applicant                    | : |                            |
|                              | : |                            |
| 2. CARDINAL HEALTH 303, INC. | : |                            |
|                              | : |                            |
| Opposer                      | : |                            |
|                              | : |                            |
| v.                           | : | Opposition No.: 91-177,365 |
|                              | : |                            |
| THE ALARIS GROUP, INC.       | : |                            |
|                              | : |                            |
| Applicant                    | : |                            |
|                              | : |                            |
| 3. CARDINAL HEALTH 303, INC. | : |                            |
|                              | : |                            |
| Opposer                      | : |                            |
|                              | : |                            |
| v.                           | : | Opposition No.: 91-177,366 |
|                              | : |                            |
| THE ALARIS GROUP, INC.       | : |                            |
|                              | : |                            |
| Applicant                    | : |                            |
|                              | : |                            |
| 4. CARDINAL HEALTH 303, INC. | : |                            |
|                              | : |                            |
| Opposer                      | : |                            |
|                              | : |                            |
| v.                           | : | Opposition No.: 91-177,367 |
|                              | : |                            |
| THE ALARIS GROUP, INC.       | : |                            |
|                              | : |                            |
| Applicant                    | : |                            |
|                              | : |                            |

5. CARDINAL HEALTH 303, INC.	:	
	:	
Petitioner	:	
	:	
v.	:	Cancellation No.: 92-048,172
	:	
THE ALARIS GROUP, INC.	:	
	:	
Registrant.	:	

### MOTION FOR CONSOLIDATION

Now comes Cardinal Health 303, Inc., by its attorney, and moves the honorable Trademark Trial and Appeal Board to consolidate the above four (4) oppositions and one (1) cancellation action.

The grounds for this motion are that:

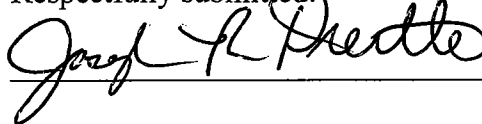
1. the parties are the same;
2. the claim in each action is based upon likelihood of confusion and priority;

Thus, the involved issues in all five (5) cases are identical. The applicant just filed its Answer to the four (4) oppositions on September 21, 2007 and the Petition to Cancel was filed on September 25, 2007. Given that the actions are all in the pre-discovery stage and involve common questions of law and fact, the TTAB may order consolidation of the proceedings under Fed. R. Civ. P. 42(a). See, S. Industries Inc. v. Lamb-Weston, Inc., 45 USPQ2d 1293, 1297 (TTAB 1997) and Hilson Research, Inc. v. Society for Human Resource Management, 27 USPQ 2d 1423 (TTAB 1993) (opposition and cancellation consolidation).

Since all five of the cases have just begun, neither party will experience any prejudice or inconvenience if the TTAB grants this motion. Rather, consolidation will avoid duplication of efforts and result in significant savings in time, effort, expense and resources of the parties and TTAB.

Date: September 27, 2007

Respectfully submitted.

A handwritten signature in cursive script, appearing to read "Joseph R. Dreitler", written over a horizontal line.

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Attorneys for Petitioner

Cardinal Health 303, Inc.

# **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being filed electronically through on-line TTAB filing systems, ESTTA on September 27, 2007.



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By: Melissa A. Hicks

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via email and regular U.S. Mail this 27 day of September, 2007 upon:

Kristine M. Boylan, Esq.  
Merchant & Gould  
3200 IDS Center  
80 South Eighth Street  
Minneapolis MN 55402

Signed: \_\_\_\_\_

  
Melissa A. Hicks